



Informational Guideline Release

Bureau of Municipal Finance Law
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CLAUSE 41C $\frac{1}{2}$ PROPERTY TAX EXEMPTION FOR SENIORS

Chapter 139, §41 of the Acts of 2006
(G.L. Ch. 59 §5(41C $\frac{1}{2}$))

This Informational Guideline Release (IGR) informs local officials about a new local option property tax exemption for seniors.

Topical Index Key:

Exemptions

Distribution:

Assessors
Selectmen/Mayors
City/Town Managers/Exec. Secys.
Finance Directors
City/Town Councils
City Solicitors/Town Counsels

CLAUSE 41C $\frac{1}{2}$ PROPERTY TAX EXEMPTION FOR SENIORS

**Chapter 139, §41 of the Acts of 2006
(G.L. Ch. 59 §5(41C $\frac{1}{2}$))**

SUMMARY:

These guidelines explain recent legislation that adds a new local option property tax exemption for the domiciles of seniors 70 or older.

If accepted, the new exemption, G.L. Ch. 59, §5, Clause 41C $\frac{1}{2}$, would replace the Clause 41, 41B or 41C senior exemption currently used by the city or town. Unlike other local option exemptions, acceptance is by referendum at a regularly scheduled municipal election. In addition, the Clause 41C $\frac{1}{2}$ exemption is five percent of the average assessed value of residential parcels in the city or town. This means the exemption amount will vary from year to year and could be less than the \$500 available under the other clauses depending on residential values and tax rates. As with the Clause 41B and 41C exemptions, taxpayers must be domiciled in Massachusetts for 10 consecutive years and have owned a domicile here for any five years. However, there is no asset (whole estate) limit and the income (gross receipts) limit is tied to the income limit single persons who are not heads of households must meet in order to be eligible for the "circuit breaker" state income tax credit limit. G.L. Ch. 62, §6(k). That limit increases each year by a cost of living adjustment factor and is generally higher than the maximum adjusted gross receipts limit a community using Clause 41C can adopt. The municipality's legislative body can increase the exemption amount to up to twenty percent of the average assessed value of residential property, reduce the eligibility age to 65 and reduce the residency requirements to five years.

These guidelines explain the features and operation of the Clause 41C $\frac{1}{2}$ exemption.

GUIDELINES:

A. LOCAL ACCEPTANCE

1. Acceptance Procedure

Acceptance of Clause 41C $\frac{1}{2}$ requires approval of the electorate at a regularly scheduled municipal election. The referendum may be placed on the ballot by vote of the selectmen, town council or city council subject to local charter.

The city or town clerk must receive written notice of the vote at least 35 days before the scheduled election. G.L. Ch. 54, §§42C and 58A.

2. Question Form

The referendum question presented to the voters must read as follows:

Shall Section 41 of Chapter 139 of the Acts of 2006 granting real estate property tax exemptions to qualifying seniors be accepted?

3. Question Summary

A fair and concise summary of the Clause 41C½ exemption and its purpose must appear underneath the question. G.L. Ch. 54, §58A. The summary is to be prepared by the community's city solicitor or town counsel and should include the fiscal year the exemption will take effect if accepted. See Section A-5 below.

4. Question Approval

The question is approved and the statute accepted if a majority of the voters voting on the referendum question vote "yes."

5. Effective Date

The exemption will apply in the fiscal year that begins the July 1 after the election, unless another fiscal year is specified in the vote by the selectmen, town council or city council and the election is held before the tax rate for that fiscal year is set.

6 Notification of Acceptance

The city or town clerk must notify the Municipal Data Management/Technical Assistance Bureau if the statute is accepted. (See attached "Notification of Acceptance"). The notification should be made as soon as possible after the referendum election.

7 Revocation of Acceptance

Acceptance may be revoked, but the city or town must wait until at least three years after the referendum passes to do so. Revocation is also by referendum at a regularly scheduled municipal election. G.L. Ch. 4, §4B.

To revoke acceptance, the selectmen, town council or city council subject to local charter may vote to present the following referendum question to the voters:

Shall acceptance by _____ (city/town) of Clause 41C½ of Section 5 of Chapter 59 of the General Laws be revoked?

The question is approved and the statute revoked if a majority of the voters voting on the referendum question vote "yes."

The revocation will apply in the fiscal year that begins the July 1 after the election, unless another fiscal year is specified in the vote by the selectmen, town council or city council and the election is held before the tax rate for that fiscal year is set.

B. APPLICATION PROCEDURE

1. Application Deadline

A taxpayer must file an application on an approved form with the board of assessors for each fiscal year for which a Clause 41C½ exemption is sought ([State Tax Form 96](#), [State Tax Form 96-1](#) or [State Tax Form 96-6](#)). **Each year's application is due on or before the date the first actual tax installment is due (the abatement deadline).** G.L. Ch. 59, §59. Assessors may not waive the filing deadline, nor act on a late-filed application.

2. Appeals

An applicant aggrieved by the assessors' action on an application for an exemption may appeal to the state Appellate Tax Board, or the county commissioners if they live in a county where county government has not been abolished. The appeal must be filed within three months of the date the deferral was denied, or deemed denied if the assessors did not act.

C. EXEMPTION QUALIFICATIONS

1. Eligibility Date

As with other personal exemptions, Clause 41C½ exemption status is determined as of July 1. G.L. Ch. 59, §5. Any eligibility requirements for the exemption must be met as of that date.

2. **Age**

The applicant must be at least 70 years old on July 1.

3. **Ownership**

An applicant must be a natural person who owns the property on July 1 and has owned that property or another property in Massachusetts as a domicile for five years. The five years do not have to be consecutive. Ownership of any domicile in Massachusetts for a total of any five years is sufficient.

The applicant may be the sole owner or may own the property jointly with a spouse or other natural persons. The property may not be owned in whole or in part by a business, governmental or non-profit entity. If the applicant has co-owners, only the applicant must meet the five-year durational ownership requirement.

As with other personal exemptions, an applicant who holds a life estate in the property is considered its owner. If the property is held in trust, the applicant must be a trustee who also has a sufficient beneficial interest in the property.

4. **Domicile**

The applicant must occupy the property as his or her domicile on July 1 and must have been domiciled in Massachusetts for the preceding ten years. The ten years must be consecutive, but the taxpayer need not have lived all of those years in the same location in Massachusetts.

If the applicant has co-owners, only the applicant must meet the current and ten year durational domiciliary requirements.

5. **Gross Receipts**

a. **Gross Receipts Definition**

Gross receipts means income from all sources and is broader than taxable income for federal or state income tax purposes. It includes wages, salaries, bonuses, commissions, public and private pensions, social security, alimony, child support, lottery winnings, interest and dividend income, capital gains, life insurance proceeds, net income from business or rental property after deduction of related business expenses and losses, public assistance, disability payments, unemployment compensation, workman's compensation, regular cash or financial contributions or gifts from family or others outside the household, and any other income.

b. Applicable Income Limit

The applicant's gross receipts for the prior calendar year cannot exceed the income limit established for a single person who is not the head of a household to qualify for the "circuit breaker" state income tax credit for that year. The limit is adjusted annually by the Commissioner of Revenue for increases in the cost of living and is announced in a [Technical Informational Release \(TIR\)](#) issued before the state tax filing season begins. If the applicant is married, the limit applies only to the applicant's income, not to the combined income of both spouses, as is the case under the other senior exemptions.

EXAMPLE

A single person who is not the head of a household must have income of \$46,000 or less during state tax year 2006 to qualify for the "circuit breaker" income tax credit for that year. Therefore, single and married applicants seeking a Clause 41C^{1/2} exemption in fiscal year 2008, which begins on July 1, 2007, cannot have gross receipts over \$46,000 during 2006.

c. Deductions

There are **no** allowable deductions when computing an applicant's gross receipts. As with other senior exemptions, personal or family expenses may not be deducted. In addition, the social security deduction from gross receipts that applies to other senior exemptions does **not** apply to Clause 41C^{1/2}.

d. Co-owners

Non-spousal co-owners do not have to meet any income limit for the applicant to qualify for the exemption.

D. EXEMPTION AMOUNT

The exemption amount is five percent of the average assessed value of residential parcels in the city or town. Average assessed value is determined by dividing the total valuation of all Class 1, Residential property by the total number of Class 1 parcels.

EXAMPLE

The total assessed valuation of Class 1, Residential property for the year is \$1,000,000,000. The total number of Class 1, Residential parcels is 1,000. The average assessed valuation of residential property for the year is \$1,000,000. The valuation exemption amount is \$50,000. If the community has a tax rate of \$10, the exemption for the year is \$500.

Recipients of a Clause 41C½ exemption do **not** receive any optional additional exemption the city or town votes for personal exemptions for the fiscal year under Chapter 73, Section 4, of the Acts of 1986.

E. ADJUSTMENTS IN EXEMPTION AMOUNT OR ELIGIBILITY FACTORS

1. Allowable Adjustments

The community may make any or all of the adjustments explained in this section.

a. Minimum Age

The eligibility age may be reduced from 70 to 65. If this adjustment is voted, any applicant who has reached the age of 65 as of the applicable July 1 qualification date would be eligible for a Clause 41C½ exemption.

b. Exemption Amount

The amount of the exemption granted to eligible applicants may be increased to up to 20 percent of the average assessed valuation of residential properties.

c. Durational Residency

The number of consecutive years the applicant must have been domiciled in Massachusetts may be reduced from 10 to five years.

2. Adjustments Procedure

a. Adjustments

An adjustment to an eligibility factor or the exemption amount is made by vote of the legislative body subject to local charter, *i.e.*, town meeting, town/city council with the approval of the mayor if required by charter. (See attached "Sample Votes for Clause 41C½ Exemption Options").

b. Effective Date

The vote should explicitly state the fiscal year in which the adjusted eligibility factor or exemption amount will first apply and must take place before the tax rate is set for that year.

c. Revision

The adjusted eligibility factor or exemption amount established in this manner will apply unless a new vote is taken establishing a different factor or amount.

F. ACCOUNTING

All exemptions granted are charged to the overlay. Assessors in communities that vote to accept Clause 41C^{1/2} or use any of its optional adjustments are advised to review the adequacy of their overlay accounts before setting the tax rate.

G. STATE REIMBURSEMENT

Subject to appropriation, cities and towns that accept Clause 41C^{1/2} will be reimbursed at the rate of the actual exemption amount or \$500, whichever is less, for each exemption granted, but the number of exemptions reimbursed are capped at the number of exemptions granted the last year Clause 41 was used. Therefore, any community that accepts Clause 41C^{1/2} will be reimbursed for any additional exemptions granted only to the extent that the total number of exemptions granted does not exceed that Clause 41 cap. The community will not receive any additional state reimbursement if acceptance of Clause 41C^{1/2} or use of any optional adjustments results in exemption amounts over \$500, or the number of exemptions granted exceeds the Clause 41 cap.

(City/Town)

NOTIFICATION OF ACCEPTANCE
General Laws Chapter 59, §5, Clause 41C^{1/2}
(Senior Exemption)

The Commissioner of Revenue is hereby notified that the City/Town of _____, by referendum held on _____, _____, has accepted G.L. c. 59, §5, Section 41C^{1/2}, as added by Section 41 of Chapter 139 of the Acts of 2006, effective for exemptions granted beginning in fiscal year _____.

(City/Town Clerk)

(Date)

PLEASE ATTACH A CERTIFIED COPY OF THE VOTE AND SUBMIT TO:

Municipal Data Management/Technical Assistance Bureau
Division of Local Services
P.O. Box 9569
Boston, MA 02114-9569

SAMPLE VOTES FOR CLAUSE 41C½ EXEMPTION OPTIONS

ELIGIBILITY ADJUSTMENTS BY LEGISLATIVE BODY, SUBJECT TO CHARTER

ARTICLE.

To see if the city/town will vote to adjust (the exemption amount and eligibility factors) for the property tax exemption for senior citizens under Massachusetts General Laws Chapter 59, Section 5, Clause 41C½, to be effective for exemptions granted for any fiscal year beginning on or after July 1, _____, or take any other action relative thereto.

MOTION. I move that the city/town vote to adjust the (exemption amount and eligibility factors) for the property tax exemption for senior citizens under Massachusetts General Laws Chapter 59, Section 5, Clause 41C½, to be effective for exemptions granted for any fiscal year beginning on or after July 1, _____, as follows:

INSERT OPTIONS BEING CHOSEN, for example:

1. By reducing the age of eligibility to age 65 (from 70).
2. By increasing the exemption percentage to (may be any percentage up to 20) (from 5%).
3. By reducing the number of consecutive years an applicant must have been domiciled in Massachusetts before qualifying for exemption to 5 years (from 10 years).

FEATURES OF CLAUSE 41C½ SENIOR EXEMPTION

ELIGIBLE AGE	<p>70 as of July 1 (Same as Clauses 41, 41B and 41C)</p> <p><u>Allowable Adjustment</u> 65 (Same as allowed under Clause 41C)</p>
OWNERSHIP	<p>Own the property on July 1 (Same as Clauses 41, 41B and 41C)</p> <p>Owned and occupied the property, or any other MA property, as domicile for any 5 years (Same as Clauses 41B and 41C)</p>
DOMICILE	<p>Occupy the property as domicile on July 1 (Same as Clauses 41, 41B and 41C)</p> <p>Domiciled in MA for 10 consecutive years before application date (Same as Clauses 41B and 41C)</p> <p><u>Allowable Adjustment</u> Domiciled in MA for 5 consecutive years before application date</p>
GROSS RECEIPTS LIMIT	<p>Same as the income limit that applies for a single person who is not the head of a household to qualify for the “circuit breaker” state income tax credit for the prior calendar year (Different from Clauses 41, 41B and 41C)</p> <p>Only applicant must meet limit (Different from Clauses 41, 41B and 41C)</p> <p>No social security deduction from gross receipts (Different from Clauses 41, 41B and 41C)</p>
WHOLE ESTATE LIMIT	None
EXEMPTION AMOUNT	<p>5% of average assessed residential valuation (Different from Clauses 41, 41B than 41C)</p> <p><u>Allowable Adjustment</u> Up to 20% of average assessed residential valuation</p>
OPTIONAL ADDITIONAL EXEMPTION	Not applicable (Different from Clauses 41, 41B from 41C)
APPLICATION DEADLINE	Same day as abatement application (on or before date first actual tax payment for the year is due) (Different from Clauses 41, 41B and 41C)
STATE REIMBURSEMENT	Exemption granted up to \$500 per exemption, with number of exemptions reimbursed in any year capped at number of exemptions granted in the last year Clause 41 used (Same cap on total number and per exemption amount as Clauses 41, 41B and 41C)

COMPARISON OF FINANCIAL MEANS TESTS FOR SENIOR EXEMPTIONS - CLAUSES 41, 41B, 41C, 41C½

	Clause 41	Local Option Clause 41B	Local Option Clause 41C	Local Option Clause 41C1/2												
Gross Receipts Limit <u>Deductions:</u> Minimum Social Security/ Retirement Allowance (set by DOR annually) ¹ If applicant/non-spousal co-owner is married, the combined income of applicant and spouse/co-owner and spouse cannot exceed married limit ²	<u>Applicant & Each Co-owner not Spouse</u> \$6,000 Single \$7,000 Married	<u>Applicant & Each Co-owner not Spouse</u> \$10,000 Single \$12,000 Married	<u>Applicant & Each Co-owner not Spouse</u> \$13,000 Single \$15,000 Married <u>Optional adjustment Applicant Only</u> Up to \$20,000 Single Up to \$30,000 Married	<u>Applicant</u> Income limit under “circuit breaker” state income tax credit for single person who is not head of household												
Whole Estate Limit <u>Deductions:</u> Registered vehicles, cemetery plots, household furniture/effects at domicile and clothing If applicant/non-spousal co-owner is married, the combined assets of applicant and spouse/co-owner and spouse cannot exceed married limit ³	<u>Option 1 - Applicant Deducts own Home (Except Any Income Producing Portion) & Each Co-owner not Spouse Includes own Home</u> <table><tr><td><u>Applicant</u></td><td><u>Each Co-owner not Spouse</u></td></tr><tr><td>\$17,000 Single</td><td>\$12,000 Single</td></tr><tr><td>\$20,000 Married</td><td>\$15,000 Married</td></tr></table> <u>Option 2 - Applicant & Co-owner not Spouse each Includes own Home</u> <table><tr><td><u>Applicant</u></td><td><u>Each Co-owner not Spouse</u></td></tr><tr><td>\$40,000 Single</td><td>\$12,000 Single</td></tr><tr><td>\$45,000 Married</td><td>\$15,000 Married</td></tr></table>	<u>Applicant</u>	<u>Each Co-owner not Spouse</u>	\$17,000 Single	\$12,000 Single	\$20,000 Married	\$15,000 Married	<u>Applicant</u>	<u>Each Co-owner not Spouse</u>	\$40,000 Single	\$12,000 Single	\$45,000 Married	\$15,000 Married	<u>Applicant & Co-owner not Spouse each Deducts own Home (Except Income Producing Portion)</u> <u>Applicant & Each Co-owner not Spouse</u> \$20,000 Single \$23,000 Married	<u>Applicant & Each Co-owner not Spouse each Deducts own Home (Up to 3 Family)</u> <u>Applicant & Each Co-owner not Spouse</u> \$28,000 Single \$30,000 Married <u>Allowable adjustment Applicant Deducts Home (Up to 4 Family)</u> <u>Applicant Only</u> \$40,000 Single \$55,000 Married	No Limit
<u>Applicant</u>	<u>Each Co-owner not Spouse</u>															
\$17,000 Single	\$12,000 Single															
\$20,000 Married	\$15,000 Married															
<u>Applicant</u>	<u>Each Co-owner not Spouse</u>															
\$40,000 Single	\$12,000 Single															
\$45,000 Married	\$15,000 Married															
Annual Inflation Adjustments (COLA)	Social security/retirement deduction automatically increased annually as determined by DOR Clause 41, 41B and 41C gross receipts and whole estate limits automatically increased annually by COLA determined by DOR if legislative body has voted to accept G.L. Ch. 59 §5(41D) Clause 41C½ gross receipts limits automatically increased annually by COLA determined by DOR for “circuit breaker” state income tax credit under G.L. Ch. 62 §6(k)(3)															

¹ Does not apply to Clause 41C½

² Does not apply to Clause 41C½

³ Does not apply to Clause 41C½